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10/517,523

12/13/2004

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EXAMINER

KUHN, MART K

ART UNIT

PAPER NUMBER

3637

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DELIVERY MODE

05/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,523

Applicant(s)

KNOWLES, SIMON

Examiner

Mart K. Kuhn

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections—35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 29–33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 29 and 33 recite the limitation “the surface element” in lines 3–4 and 2, respectively. There is insufficient antecedent basis for this limitation in the claims, as a plurality of surface elements was previously recited and it is unclear which surface element is being referred to.
4. Claim 31 recites the limitation “the skirt portion” in lines 2–3. There is insufficient antecedent basis for this limitation in the claim, as a plurality of skirt portions was previously recited and it is unclear which skirt portion is being referred to.

Claim Rejections—35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
6. Claims 28, 33, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grandin, US patent 6,684,576, in view of Koski, US patent 3,532,403. Grandin teaches a collapsible bar (80) having a variable number of support members (12) and means (26, 27) for releasably latching a plurality of selectable and interchangeable work surface elements (52, 74) having different functions (e.g., surface element 74 enables bartenders to freely enter and exit the collapsible bar), each selected surface element being removably engagable with the support members via the releasable latching means. Grandin, though teaching interchangeable work surface elements with different functions, does not teach a work

Art Unit: 3637

surface element having a recess therein or an aperture therethrough. Koski teaches a modular bar (10) with support members (20) supporting a plurality of work surface elements (43) with different functions, one of the work surface elements having a recess (45) therein, suitable for use as a bottle holder or ice-chest, and having an aperture therethrough leading to a waste container (46). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the collapsible bar of Grandin by including a recess or aperture in a surface element, as taught by Koski, for the purpose of providing a sink or waste receptacle for use by bartenders.

Regarding claims 33 and 35, each surface element of Grandin is removably positionable in a plurality of positions on the support members and is interchangeable with another surface element; and Grandin further teaches a screen wall (42) around the front and sides of the bar.

7. Claims 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grandin and Koski as applied to claim 28 above, and further in view of Baker et al., US patent 1,411,260. Grandin and Koski do not teach latching means including an elongate channel on each support and skirt portions on the surface elements. Baker et al. teach a collapsible structure having support members (1, 3) supporting surface elements (4) via releasable latching means, the releasable latching means including skirt portions (17) on the surface elements received as a close fit in elongate channels (16) on the support members. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the collapsible bar of Grandin, already modified by Koski, by including elongate channels on the support members and skirt portions on the surface elements, as taught by Baker et al., for the purpose of allowing the structure to be securely assembled without requiring the use of bolts.

Regarding claim 32, Grandin teaches support members having an upright (22) and a plurality of horizontal cross-members (20, 24), but not front and back uprights. Baker et al. teach support members having front and back uprights (1) and a plurality of horizontal cross-members (3) therebetween. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the collapsible bar of Grandin, already modified as above, by including front and back uprights in the support

Art Unit: 3637

members, as taught by Baker et al., for the purpose of strengthening the assembly and providing additional support for the surface elements.

8. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grandin, Koski, and Baker et al. as applied to claim 29 above, and further in view of Bartlett et al., US patent 3,498,239. Baker et al. teach a collapsible structure with latching means having open-ended channels, but not a latch element which slidably receives the edge of the open end of the channel. Bartlett et al. teach a shelving system having a surface element (8) supported by support members (6), the support members having an elongate channel (26) which receives skirt portions (28) of the surface element, and wherein there is also included on an edge of the skirt portion a latch element (36, 40) which can slidably receive the edge of the channel. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the collapsible bar of Grandin, already modified as above, by including on an edge of the skirt portion of the surface element a latch element which slidably receives the edge of the open end of the channel, as taught by Bartlett et al., for the purpose of further securing the surface element to the support member.

9. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grandin and Koski as applied to claim 28 above, and further in view of Okopny, US patent 4,699,067. Grandin does not teach a bar-top element; Koski teaches a bar-top element (21) supportable by the support members, but does not teach means for releasably retaining the bar-top on the support members. Okopny teaches a collapsible table having a work surface element (1) supported by support members (3); a secondary surface element (10) usable as a bar top, supported by the support members; and means (5, 9) for releasably retaining the bar-top element on the support members, including support extensions (5) and support brackets (9). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the collapsible bar of Grandin, already modified by Koski, by including a bar-top element, as taught by Koski, for the purpose of providing a surface on which to pass drinks to customers, and by

Art Unit: 3637

including means for releasably retaining the bar-top element on the support members, as taught by Okopny, for the purpose of allowing the bar-top element to be selectively and securely installed.

10. Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grandin and Koski as applied to claim 35 above, and further in view of Donavan, US patent 1,093,119. Grandin and Koski teach screen walls around the front and sides of the bar, but not hingedly jointed or freestanding screen walls. Donavan teaches a screen wall (Fig. 1) which is freestanding and hingedly jointed. It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the collapsible bar of Grandin, already modified by Koski, by including a hingedly jointed screen wall, as taught by Donavan, for the purpose of enabling the screen wall to be conveniently collapsed for storage, and by including a freestanding screen wall, as taught by Donavan, for the purpose of allowing the entire screen wall to be removed and repositioned as a unit without interfering with the support structure.

Response to Arguments

11. Applicant's arguments, see page 7, filed 26 February 2007, with respect to the objections to the drawings and specification, and the rejections under 35 U.S.C. 112 set forth in the previous Office Action, have been fully considered and are persuasive. The objections and rejections have been withdrawn.

12. Applicant's arguments, see pages 7–8, filed 26 February 2007, with respect to the rejection(s) of claims under DiCenzo have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Grandin and Koski, as set forth above. Grandin and Koski, in combination, teach a collapsible bar with surface elements including the structural limitations set forth in claim 28.

13. In response to applicant's argument that DiCenzo, and by extension any modular shelving unit, is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Applicant's invention is merely a special-

Art Unit: 3637

ized case of a modular shelving unit, which happens to have a particular intended use and shelves having additional structure promoting that intended use. However, a shelf by any other name still needs support, and one of ordinary skill in collapsible bars—or tables, etc.—would certainly look to the teachings of other collapsible structures for guidance.

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mart K. Kuhn whose telephone number is (571) 272-8926. The examiner can normally be reached on M–F, 8:30am–5pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MKK MKK

11. May 2007


JANET M. WILKENS
PRIMARY EXAMINER
Not 3637